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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/072,876	02/12/2002	Wolfgang Ruf	P21902	2423

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EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 03/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/072,876

Applicant(s)
Ruf et al.

Examiner
José A. Fortuna

Art Unit
1731



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 3, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 11, 15, 17-23, 31, 35, 37-42, 44, and 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Ruf et al., US Patent No. 5,645,689.

Ruf et al. teach a Multilayer headbox having at least one lamella disposed between a nozzle chamber, see abstract. Ruf et al. teach that the lamella(s) has/have upstream structure and a downstream structure. The downstream portion having first surface, a sloped portion and second surface opposed to the first surface, see figures 5-8. The figures also show the sloped part faces one of the nozzle walls. Ruf et al. teach in column 5, lines 39-44, that the nozzle walls can be provided with a deformable strip, called screen and *teach in column 4, line 64 through column 5, line 6 and shown in figure 6, that the lamella can be provided with a non-planar surface , i.e., the combination of the structure 9,6 and 8.6 of figure 6 form a non planar surface*. In column 6, lines 1-62, Ruf et al. teach that the headbox have a sectional consistency control, i.e., dilution water can be introduced to the headbox through sectional pipes. In column 3, lines 60-64, Ruf et al. teach that the lamella can swivel, pivotally mounted, or can be rigidly secured, fixedly mounted.

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3. Claims 1-3, 15, 17-23, 31, 35, 37-42, 44, and 48-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanford, US Patent No. 4,941,950, (cited in Information Disclosure Statement of paper no 3).

Sanford teaches a Multilayer headbox having at least one lamella/trailing element disposed between a nozzle chamber, see abstract. Sanford teach that the lamella(s) has/have upstream structure and a downstream structure. The downstream portion having first surface (50), a sloped portion , (24D) and second surface opposed to the first surface (22D), see figures 7-9. The figures also show the sloped part faces one of the nozzle walls. Sanford teaches in column 3, lines 7-26 the use of groves in the first and/or second lamella surface and teaches, same column and lines, that the lamella can swivel, pivotally mounted within the slice chamber

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Column.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 12, 32, 46, and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruft et al., (cited above) in view of Sanford, US Patent No. 4,941,950, (cited in Information Disclosure Statement of paper no. 3).

Ruft et al. do not teach a grooved surface on the trailing elements or lamella. However, Sanford teaches that including grooves in the surfaces of the lamella/trailing elements help in the reduction of turbulence within the slice chamber, improving the paper formation, see column 3, lines 7-26. Therefore, adding grooves to Ruft et al. lamella as suggested by Sanford would have been obvious to one of ordinary skill in the art in order to improve paper formation.

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7. Claims 4-10, 13-14, 16, 24-30, 33-34, 36, 43 and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruf et al. or Sanford

Ruf et al. and Sanford are silent with respect to the specific of the above claims, i.e., the angle, thickness and size of the lamella, the polymers used to make the lamella. However, it has been held that changing of size and geometric form of a device is within the levels of ordinary skill in the art absent a showing of unexpected results. It has been held that "[C]hanges in size, shape without special functional significance are not patentable. *Research Corp. v. Nasco Industries, Inc.*, 501 F2d 358; 182 USPQ 449 (CA 7), cert. denied 184 USPQ 193; 43 USLW 3359 (1974).

Response to Arguments

8. Applicant's arguments with respect to claims 1-53 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR

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1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to José Fortuna, whose telephone number is (703)305-7498. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin, can be reached on (703)308-1164. The fax number for this group is (703)305-7115.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-0661.

When filing a FAX in group 1730, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

José A. Fortuna
March 24, 2003


JOSE FORTUNA
PRIMARY EXAMINER
ART UNIT 1731